

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Carlos Alberto Prieto

v.

Case No. 14-cv-514-JL

Esker L. Tatum, Jr.

O R D E R

Carlos Alberto Prieto, an inmate at the Federal Correctional Institution, Berlin, New Hampshire ("FCI-Berlin"), has filed a petition for a writ of habeas corpus (doc. no. 1), and an addendum to that petition (doc. no. 5), pursuant to 28 U.S.C. § 2241. The matter is before this court for preliminary review, to determine whether the petition is facially valid and may proceed. See 28 U.S.C. § 2243; LR 4.3(d)(4)(A); Rule 4 of the Rules Governing Section 2254 Cases ("§ 2254 Rules"); see also § 2254 Rule 1(b) (§ 2254 Rules may apply to § 2241 petitions).

Upon review of the petition and the addendum, the court finds that it does not appear to be invalid on its face, and that service of the petition is thus warranted. The clerk's office shall serve the petition and addendum (doc. nos. 1 and 5) on respondent, Esker L. Tatum, Jr., Warden of FCI-Berlin, and the United States, in accordance with Fed. R. Civ. P. 4(i)(1) and (2). Respondent shall file an answer or other response to the allegations in the petition within sixty days of the date of this order. See Fed. R. Civ. P. 12(a)(2).

The court further directs that within sixty days of filing an answer, respondent shall either:

1. Move for summary judgment (attaching as exhibits all relevant court orders, transcripts, federal Bureau of Prisons records, and agency decisions); or

2. File a written statement representing that an evidentiary hearing is necessary to resolve disputed issues of material fact.

Any motion for summary judgment filed in this case, and any briefing on that motion, shall include the information required by, and shall comply with, the formatting requirements and deadlines set in this order, Fed. R. Civ. P. 56, LR 7.1, and LR 56.1. See § 2254 Rule 12; Fed. R. Civ. P. 81(a)(4) and 83. The parties are notified that § 2254 Rules 1(b), 4-8, 10, 11(b), and 12 shall apply to this petition. See § 2254 Rule 1(b).

SO ORDERED.

/s/ Andrea K. Johnstone
Andrea K. Johnstone
United States Magistrate Judge

March 6, 2015

cc: Carlos Alberto Prieto, pro se
Seth R. Aframe, Esq.